REMARKS / DISCUSSION OF ISSUES

Claims 1-21 are pending in the application.

The Office action notes that the priority date of 30 September 2002 is not recognized. This priority date corresponds to U.S. Provisional Patent Application 60/414,944, as claimed in the International Patent Application PCT/IB2003/004123 from which the current application was filed under 35 U.S.C. 371.

The Office action notes that the declaration is defective for lack of an inventor's signature. Attached is a copy of the signed declaration, which was apparently omitted from the initial filing transmittal. The applicants thank the Examiner for bringing this omission to our attention.

The Office action provisionally rejects claims 1-4, 6-7, and 9-12 for double patenting over claims of U.S. Patent Application 10/529,353 (hereinafter '353) in view of Stevens ("TCP/IP Illustrated, vol. 1, The Protocols"). The applicants respectfully traverse this rejection.

Neither '353 nor Stevens teaches or suggests communicating a response from a target node to a source node that includes a measure of processing time required to generate the response based on a received query, as specifically claimed in independent claims 1 and 9, upon which claims 2-8 an 10-14 depend.

Also, neither '353 nor Stevens teaches or suggests receiving a response from a target node that includes a measure of processing time required to generate the response based on a received query and determining the proximity of the target node based on a communication time that depends upon a difference between the measure of query-response time and the measure of processing time, as also specifically claimed in independent claim 1.

Because the combination of '353 and Stevens fails to teach or suggest each of the elements of each of the applicants' independent claims, the applicants respectfully request the Examiner's reconsideration of the provisional rejection of claims 1-4, 6-7, and 9-12 over '353 and Stevens.

The Office action rejects claims 1-3, 5-11, 13-17, and 19-21 under 35 U.S.C. 103(a) over Stevens, Wang (USP 6,446,028), and Needham ("Using Encryption for Authentication in Large Networks of Computers"). The applicants respectfully traverse this rejection.

Neither Stevens, Wang, nor Needham teaches or suggests transmitting or receiving a response from a target node to a source node that includes a measure of processing time required to generate the response based on a received query, as specifically claimed in each of the independent claims 1, 9, and 15, upon which each of the other claims depend.

Neither Stevens, Wang, nor Needham teaches or suggests determining the proximity of the target node based on a communication time that depends upon a difference between a measure of query-response time and the measure of processing time, as also specifically claimed in independent claims 1 and 15, upon which claims 2-8 and 16-21 depend.

The Office action fails to identify where Stevens, Wang, or Needham teaches the inclusion of a measure of processing time in a response from a target node. The Office action acknowledges that Stevens does not provide this teaching, and references Wang for teaching a measure of processing time in response to a query. However, Wang uses a network monitor to determine this processing time, after the response is sent from the target node. The measured processing time in Wang is not included in the response, and, because it is determined after the response is sent, cannot be included in the response. That is, a combination of Stevens and Wang will not provide a response that includes a measure of the processing time. Needham does not address processing time.

Because the combination of Stevens, Wang, and Needham fails to teach or suggest the inclusion of a measure of processing time in a response from a target node, as claimed in claims 1, 9, and 15, the applicants respectfully request the Examiner's reconsideration of the rejection of claims 1-3, 5-11, 13-17, and 19-21 under 35 U.S.C. 103(a) over Stevens, Wang, and Needham.

The Office action acknowledges that Wang does not teach determining the proximity of the target node based on a communication time that depends upon a difference between a measure of query-response time and the measure of processing time, and relies on Stevens for this teaching.

The Office action asserts that Stevens provides this teaching at page 2, paragraph 4. The applicants respectfully disagree with this assertion. At the cited text, Stevens teaches:

> "Historically the ping program has operated in a mode where it sends an echo request once a second, printing each echo reply that is returned. Newer implementations, however, require the -s option to operate this way. By default, these newer implementations send only a single echo request and output "host is alive" if an echo reply is received, or "no answer" if no reply is received within 20 seconds."

As is clearly evident, the cited text of Stevens does not teach determining the proximity of the target node based on a communication time that depends upon a difference between a measure of query-response time and the measure of processing time, as asserted in the Office action.

Because the combination of Stevens, Wang, and Needham fails to teach or suggest determining proximity based on a difference between a measure of query-response time and the measure of processing time, as claimed in claims 1 and 15, the applicants respectfully request the Examiner's reconsideration of the rejection of claims 1-3, 5-8, 15-17, and 19-21.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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